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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

21 Cr. 88 (JSR)

6 LORD ANING,

7 Defendant.

Sentencing

8 -----x  
9  
10 New York, N.Y.  
11 February 28, 2022  
12 4:35 p.m.

13 Before:

14 HON. JED S. RAKOFF,

15 District Judge

16 APPEARANCES

17 DAMIAN WILLIAMS

18 United States Attorney for the  
19 Southern District of New York

20 BY: SAGAR K. RAVI, ESQ.  
21 Assistant United States Attorney

22 KLINGEMAN CERIMELE, ATTORNEYS

23 Attorneys for Defendant

24 BY: ERNESTO CERIMELE, ESQ.

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1 (Case called)

2 THE DEPUTY CLERK: Will the parties please identify  
3 themselves for the record.

4 MR. RAVI: Good afternoon, your Honor. Sagar Ravi for  
5 the United States.

6 THE COURT: Good afternoon.

7 MR. CERIMELE: Good afternoon, your Honor. Ernesto  
8 Cerimele, attorney for defendant Lord Aning, standing to my  
9 left.

10 THE COURT: Good afternoon. Please be seated.

11 All right. We're here for sentencing. And the first  
12 order of business is to calculate the guideline level, even  
13 though, as all counsel are doubtless aware, I give the  
14 guidelines very little weight. I should say I give the  
15 guidelines the weight that they deserve, which is modest.

16 Anyway, the presentence report calculates the total  
17 offense level as 24, the criminal history category as I, and  
18 the guideline range as therefore 51 to 63 months. Any  
19 disagreement with that from the government?

20 MR. RAVI: No, your Honor.

21 THE COURT: From the defense.

22 MR. CERIMELE: No, your Honor.

23 THE COURT: The Court also agrees and will adopt that  
24 guideline range and also adopt the presentence report.

25 So now we turn to what is of great interest to the

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1 Court, which is what sentence to impose under Section 3553(a),  
2 and we'll hear from counsel and then from the defendant if he  
3 wishes to be heard.

4 Counsel should go to the rostrum, and you can take off  
5 your mask, which makes it much easier for the court reporter to  
6 pick up the nuances of your remarks. So we'll hear first from  
7 defense counsel.

8 MR. CERIMELE: Thank you, your Honor. We filed a  
9 sentencing submission dated February 21, 2022, and I will  
10 incorporate that by reference. I intend to be brief.

11 I did want to highlight the following: Number one,  
12 both the government and the defendant are seeking a variance  
13 here.

14 THE COURT: Yes. It's interesting. The probation  
15 officer did ask for a guideline sentence, albeit at the low end  
16 of the guideline range; the defense asks for a noncustodial  
17 sentence; and the government, very much to its credit, I think,  
18 recognized that the guidelines were too high in this particular  
19 case and asked for, if I recall correctly, a 39-month sentence.  
20 But there's still a long way between 0 and 39. So let's hear  
21 from defense counsel.

22 MR. CERIMELE: No question, Judge. The reality is the  
23 defendant is ultimately going to be removed from this country  
24 and his family, and we believe that that is significant and  
25 that warrants a significant variance.

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1                 Number two, this is the defendant's first criminal  
2 conviction. He has had no other run-ins with law enforcement  
3 in his life.

4                 Number three, this is a non-violent offense, and  
5 Mr. Aning has never been a violent person.

6                 Number four, Mr. Aning was an easily replaceable  
7 member of the conspiracy. He was fungible.

8                 THE COURT: Well, I'm not sure I understand. All your  
9 other arguments I certainly understood. So in many  
10 conspiracies there are lots of people who could do the evil  
11 work, but only those who actually do it, or agree to do it,  
12 commit a crime. So the fact that he could have been replaced  
13 by someone else, what does that matter? He did what he did.

14                 MR. CERIMELE: You're right, your Honor. And I equate  
15 this to a drug conspiracy, right? When you have a totem pole,  
16 those on top are giving the directions and those on the bottom  
17 are the street-level dealers, right? And those are the people  
18 who, if one person declined, easily replaceable; they can fill  
19 that role with someone else. The point is that that is what  
20 Mr. Aning was to this conspiracy. He was present in the United  
21 States, which was significant, okay? Because he was present in  
22 the United States, he became an easy target for his  
23 co-conspirators, who were abroad. He was approached by his  
24 co-conspirators abroad because he was in the United States and  
25 he had the ability to get bank accounts. And ultimately he

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1 agreed. If he didn't agree, someone else would have filled  
2 that role, but he was by no means a decision-maker, he by no  
3 means gave directions; he accepted the directions and he  
4 implemented them. And I'll get into this in a second, your  
5 Honor. His role was instrumental, no doubt. If he wasn't part  
6 of this conspiracy, the conspiracy didn't work. But if he  
7 wasn't part of the conspiracy, someone else would have been.

8 Finally, Judge, point number five is that Mr. Aning  
9 deeply regrets his decision to participate in this offense. It  
10 was wrong. He accepted responsibility. And that is the single  
11 most important thing that I will say this afternoon. He  
12 admitted his wrongdoing, sooner than any other defendant, and  
13 he fully disclosed his involvement to the government in June of  
14 2021.

15 For nearly 30 years, Mr. Aning was a model member of  
16 society. He's kind, he is generous, he is selfless, and that  
17 is a theme that resonates through the letters that were  
18 addressed to your Honor. I won't go through them. I know that  
19 your Honor is in possession of them. But certainly, in every  
20 letter written to your Honor, they describe Mr. Aning as  
21 selfless. He worked tremendously hard, before he entered the  
22 United States, to put himself in a position where he could  
23 eventually come to the United States and be with his mother and  
24 his sister. And then once he got to the United States,  
25 legally, he worked tremendously hard to be an upstanding member

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1 of society. He went to school; he worked; he supported his  
2 family. And then ultimately, a few years ago, he made an  
3 egregious mistake.

4 THE COURT: Well, how do you square that with the fact  
5 that he then voluntarily chose to involve himself in a fairly  
6 sophisticated scheme where he opened numerous bank accounts and  
7 took other measures that certainly suggested that he was  
8 perfectly happy to make use of the fact that he was in the  
9 United States to carry out the scheme?

10 MR. CERIMELE: You can't square it, your Honor. He  
11 made a mistake. And it was an egregious mistake. Again, he  
12 was approached by others from abroad to use bank accounts.  
13 They needed the bank accounts to make the conspiracy work, and  
14 he agreed. Initially he was ignorant to the fact that what he  
15 was doing was criminal. He didn't know the details of the  
16 conspiracy. He assumed he was doing something wrong, but he  
17 couldn't tell you where the money was necessarily coming from  
18 or what the money was going into the accounts for. Initially.  
19 He later learned, and he continued to engage in that conduct.  
20 For that he is regretful. And in a lot of ways, your Honor, a  
21 significant sentence has already been imposed. He deals with  
22 the consequences of his actions on a daily basis. He is  
23 humiliated, he is embarrassed. His reputation has been  
24 tarnished. He finds himself isolated. And early on, he also  
25 spent quite some time in custody before he was afforded

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1 release.

2 Now as the Court is aware, Mr. Aning was also charged  
3 with multiple co-conspirators. He did not know those  
4 co-conspirators. But it is important for your Honor to assess  
5 Mr. Aning's role related to the co-conspirators' roles, the  
6 co-defendants' roles. As your Honor is aware, a couple of  
7 weeks ago, Fred Asante pled guilty before your Honor. Asante  
8 controlled over a dozen business bank accounts with deposits  
9 totaling over 35 million, he profited close to \$650,000, and  
10 the government seized about \$323,000 in his account upon his  
11 arrest. He was also in possession of an expensive 2021  
12 Mercedes-Benz at the time of his arrest. His co-defendants  
13 were also in possession of a 2020 Bentley Continental and two  
14 2019 Rolls Royces. Each of those last three had values in  
15 excess of hundreds of thousands of dollars.

16 On the other hand, at the time of the offense, at the  
17 time of his arrest, Mr. Aning was not in possession of luxury  
18 cars or expensive jewelry or sacks of cash. He had a bank  
19 account, a personal bank account that had about a thousand  
20 dollars in it. And he had \$15,000 in debt. He received a  
21 financial benefit for his conduct, right? He was motivated to  
22 participate in the conduct for the money. For a young man, who  
23 is living in north New Jersey, who was trying to go to school,  
24 who was trying to pay for books, who was trying to support his  
25 family, the money helped. He made \$170,000, not all at once.

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1 That's a substantial amount of money, no doubt, but it is a  
2 pittance compared to his co-conspirators abroad and his  
3 co-defendants in this case. That \$170,000 was, again, not made  
4 at once, it was made over the course of several years, so he  
5 made about 30 or \$40,000 a year. And he was wrong for doing  
6 that, and shame on him. But he has accepted responsibility for  
7 his conduct, your Honor. He accepted it quickly. He has  
8 suffered immensely, and he will continue to suffer.

9 As I stated early on -- and I'll leave with this --  
10 Mr. Aning is going to be removed from the United States after  
11 his sentence. He will be permanently separated from his mother  
12 and his sister. He has made selfish decisions that do not  
13 represent who he is, and don't represent the person that he was  
14 brought up to be, and he regrets that. But that is an  
15 extraordinary penalty, it is a significant penalty, and that is  
16 why we are asking for a significant variance.

17 With that, your Honor, I know that Mr. Aning would  
18 like to address the Court.

19 THE COURT: Well, I'll hear first from the government.  
20 So thank you very much. Let me hear from the government.

21 MR. CERIMELE: Thank you.

22 MR. RAVI: As the Court is aware, the government --

23 THE COURT: You can take off your mask.

24 MR. RAVI: Thank you. It feels like normal. All  
25 right.

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1                   As the Court is aware, the government is asking for a  
2 sentence of no less than 39 months for the reasons we set forth  
3 in our sentencing submission.

4                   THE COURT: Let me ask you this. First, where do you  
5 place this defendant in the hierarchy of the various people  
6 you've indicted in this case?

7                   MR. RAVI: Sure. So your Honor, there are  
8 defendants -- and the government referenced another case that  
9 was charged in front of Judge Cote with some other defendants  
10 that were charged as part of the broader enterprise, but there  
11 are essentially a few tiers of defendants, types of defendants  
12 in this case. The first are what we'd call kind of money  
13 mules, who largely were there to transport money and cash from  
14 other folks who had bank accounts that received funds and that  
15 were then kind of carrying this money abroad.

16                  Then there's a kind of a second tier that had bank  
17 accounts and that were involved in minimal amount of  
18 transactions, largely in their own personal accounts, and that  
19 they were then laundering that money abroad.

20                  The third tier is the more sophisticated money  
21 launderers, and I believe Mr. Aning falls within that tier.  
22 These are defendants who opened companies for the purposes of  
23 laundering money, so that they could launder money through  
24 banks and business bank accounts as a personal bank account  
25 because banks provide -- there's less scrutiny when it comes

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1 from business bank accounts because they'd be receiving  
2 transactions in large amounts of money from various sources so  
3 therefore there's less scrutiny. Mr. Aning falls within that  
4 category.

5 Now I think as defense counsel alluded to, in just the  
6 four defendants before your Honor, Mr. Aning is the least  
7 culpable of those four defendants in that the amount of money  
8 that he transported through his accounts was the least of the  
9 four defendants before your Honor. There are other defendants  
10 that were charged -- and the government mentioned some of them  
11 in one of the footnotes in our submission -- that were similar  
12 to Mr. Aning in that they also transported amounts of money  
13 through business bank accounts. The amounts that those  
14 defendants, however, were involved in were less than Mr. Aning.  
15 Mr. Aning here has, you know, over the course of three years,  
16 received at least \$1.7 million in fraud proceeds that involved  
17 nine bank accounts that he had opened and involved eight  
18 different banks. So his conduct was extensive. This is not a  
19 one- or two-transaction person who made a mistake and then  
20 regretted it. This is someone who chose, over three years, to  
21 engage in this conduct. And he received victim money from 62  
22 different victims, at a minimum, that the government has  
23 identified. And he made \$170,000 in profits. This is  
24 significant conduct, and, you know, the overarching purpose of  
25 sentencing that would be served here would be to reflect the

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1 seriousness of this offense, to promote respect for the law,  
2 and to provide for just punishment.

3 The second kind of big sentencing factor here that's  
4 relevant is general deterrence. I think, you know, defense  
5 counsel made the point that, well, Mr. Aning got caught and  
6 he's going to get sentenced but there's anyone who can do this  
7 work. I don't disagree with that statement, your Honor, but  
8 it's important that there be a significant sentence given here  
9 to discourage others and to send a message that, you know, if  
10 you choose to engage in this conduct and you choose to engage  
11 in extensive conduct like this over multiple years, involving  
12 dozens of victims and millions of dollars, you will get a  
13 substantial sentence.

14 THE COURT: Well, that, of course, is true as a  
15 general proposition, but the studies that have been conducted  
16 to try to ascertain the effect of general deterrence in  
17 white-collar crimes have not been able to show that, for  
18 example, a three-year sentence has a significantly more  
19 deterrent effect than a one-year sentence. So what you say is  
20 true as far as it goes, but it's I think of limited value in  
21 determining a specific sentence. It is unquestionably true  
22 there are a lot of studies that show that would-be white-collar  
23 miscreants are deterred if they know there is a likelihood of  
24 prison that follows. So the argument against time served would  
25 be applicable there. But there is no study that I'm aware of,

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1 unless you are, that that general deterrence effect in a  
2 white-collar case is not served by a one-year sentence or a  
3 two-year sentence, it can only be served by a three-year  
4 sentence or whatever.

5 MR. RAVI: I hear you, your Honor, on that, and I'm  
6 not aware of another study either, and I think it's very hard  
7 to measure the effect of these sentences.

8 THE COURT: That's correct. It's very hard to  
9 measure. You got it.

10 MR. RAVI: So I hear your Honor on that. I think what  
11 we have here are, you know, the data points regarding other  
12 defendants who have been sentenced to significant jail time for  
13 less amounts of money, at least in a companion case.

14 THE COURT: Let me ask you one other question. He  
15 proffered cooperation. Ultimately, as I understand, it wasn't  
16 something the government needed. Was his proffer, in your  
17 view, truthful?

18 MR. RAVI: It was truthful, your Honor. I think the  
19 other kind of big reason the government didn't continue with  
20 cooperation was, the defendant simply wasn't able to provide  
21 much information about the people he was laundering the money  
22 for.

23 There's just one other point I want to make, just  
24 about the purpose of addressing unwarranted sentencing  
25 disparities. Defense counsel mentions in their letter, they

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1 provide some statistics to the Court that for offenders in a  
2 criminal history category of I, the mean sentence was 16 months  
3 and the median was six months. You know, I think the Court  
4 probably is aware that, you know, that does not at all reflect  
5 in any way their offense level. This is all defendants in 2020  
6 who were sentenced with a criminal history category of I.

7 THE COURT: Yes. One of the reasons that I don't much  
8 care for the guidelines—although there are many, many  
9 reasons—is that it's all sort of numbers playing, and I think  
10 that's true, perhaps to a lesser extent, about the point you're  
11 just referring to in defense counsel's papers. What's critical  
12 I think for any judge is to look at the facts of the case  
13 before him, the facts of the person, the human being before  
14 him, and not to get caught up with more than a modest reliance  
15 on comparisons with other cases, which the judge often knows  
16 nothing about. The guidelines, in their wisdom or lack  
17 thereof, attempted to do away with disparities. That's a total  
18 myth. They've created far greater mischief than any cure that  
19 they've had on disparities. Most disparities are achieved  
20 these days through plea bargaining, where the courts have no  
21 say and the guidelines have no say, other than, as part of the  
22 negotiation, a guideline range is determined. So we have the  
23 irony that it is the parties and mostly the government that is  
24 determining guidelines sentences, and they're all over the lot,  
25 depending on the prosecutor, depending on the case, whatever,

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1 and yet the myth is, oh, the guidelines will therefore do away  
2 with disparities. Well, no, it's just forced the disparities  
3 back to a secret negotiation that can never be measured by the  
4 Court. So the same is true I think in furtherance of what  
5 you're saying with respect to here's what a mass of people get  
6 in category I or whatever. To me it's not irrelevant, but it's  
7 not highly relevant.

8 MR. RAVI: Your Honor, and just to respond to some of  
9 the statistics that defense counsel gave, I looked at the --  
10 there's something called the Judiciary Sentencing Information  
11 Tool, which the Court might be aware of, and, you know, for the  
12 past five years, from 2016 to 2020, for all defendants like  
13 Mr. Aning who had guidelines under 2B1.1, with a category I and  
14 an offense level of 24, which he has, there were 442 offenders  
15 in that category for those five years, and 97 percent of them  
16 received a sentence of imprisonment, and of those 97 percent,  
17 the average length of imprisonment was 40 months and the median  
18 was 42 months.

19 THE COURT: Right. And that's, in my mind, just as  
20 irrelevant as the statistics that your adversary gave. But  
21 thank you anyway.

22 MR. RAVI: Thought you should hear from both sides at  
23 least, your Honor.

24 THE COURT: You know, I can't wait till law schools,  
25 instead of offering a course in criminal law, offer a course in

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1 advanced arithmetic. But in any event, I hear what you're  
2 saying.

3 MR. RAVI: So to that end, your Honor, we have this  
4 defendant before us. I think the Court is aware of the  
5 defendant's criminal conduct here, weighed against some of the  
6 good factors here, which is the defendant's acceptance of early  
7 responsibility, his coming in and his truthfulness during the  
8 proffer, which drives the government's below-guidelines  
9 recommendation.

10 THE COURT: Thank you very much.

11 Let me hear from the defendant, if he wishes to be  
12 heard.

13 THE DEFENDANT: Good afternoon, your Honor. My name  
14 is Lord Aning.

15 I just want to say I'm like deeply sorry for my  
16 actions. And I'm really very aware of the consequences now. I  
17 just wish I knew better, and made better choices, and I wished  
18 I had listened to my family earlier on, because if I did, I  
19 wouldn't be here right now, due to the fact that this isn't the  
20 way they raised me, and I just want to say I'm sorry for  
21 letting them down. And to all the victims involved. To some  
22 extent I didn't know how everything was moving around. I later  
23 got to know, but -- so I didn't really know everything like  
24 hundred percent, but still, I'm sorry for my actions. And  
25 standing here, I already feel ashamed, looking back home to my

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1 friends, to my family. I really recall when I was released  
2 from jail, a few friends came over, and one thing they actually  
3 say that kept ringing in my mind was, they looked on me very  
4 disappointed, and majority of them were surprised to see me  
5 doing something like that because they actually all looked up  
6 to me, expected better things from me, because I was always  
7 there for them, motivating them, trying to keep smiles on their  
8 faces, and I really let everybody down. I wish I knew every  
9 victim's house or probably where they lived so I could just go  
10 and say sorry to them. That's how I really feel.

11                 And to my family and my close friends and loved  
12 ones -- I wish a lot of them were here -- I just want to say  
13 I'm sorry, for letting them down and not being able to live up  
14 to the person they wanted to see me be.

15                 Thank you.

16                 THE COURT: Thank you very much.

17                 Well, on the one hand, the Court is not convinced that  
18 a substantial period of incarceration such as suggested by the  
19 government is necessary to serve the general deterrence  
20 function of Section 3553, though conversely, the Court is of  
21 the view that some prison time is always required to serve a  
22 meaningful general deterrence in all but the most exceptional  
23 white-collar cases. White-collar cases are committed, as this  
24 one was, for the money, and therefore no amount of monetary  
25 fine or restitution or whatever is going to be a meaningful

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1 deterrent; only prison time is a deterrent. I'm talking about  
2 general deterrence now.

3 So the hard question is: How much prison time? So  
4 the defendant has many positive things in his character, and I  
5 think that was illustrated by the fact that upon his arrest, he  
6 immediately sought to cooperate and tell the facts. Now it  
7 turned out he wasn't someone the government needed, and the  
8 government rightly doesn't just willy nilly cut cooperation  
9 agreements with everyone who fesses up. But nevertheless, it  
10 speaks to the defendant's ultimate ambivalence about his  
11 misconduct that, once caught, he fessed up and was willing to  
12 cooperate against others if the government had chosen to use  
13 him for that purpose. And those who do cooperate with the  
14 government often get very substantial reductions in sentence,  
15 and so even those who don't get that same benefit, because  
16 their cooperation is not used, do fulfill some of the same  
17 functions that cooperators do, or at least it evidences a more  
18 positive side of their character.

19 But on the other hand, what really stands out about  
20 this case is the amount of time the defendant spent helping to  
21 steal money from innumerable human beings. The restitution  
22 order that was presented to me, and which I have just signed  
23 and will give to my courtroom deputy to docket, lists just  
24 large, large number of victims, who range all the way from  
25 people who lost a thousand dollars to a person who lost

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\$150,000. And by the way, the chance that these folks will get their money back is extremely low. The restitution provisions of federal law are, unfortunately, more a matter of paper than a matter of reality. I will throw in one statistic of my own, which is that overall, less than 10 percent of all restitution that's imposed by the courts is actually paid. And that's understandable, because when the folks get caught who committed the crimes, they're usually either out of money or soon will be. But these are real victims—not one, not two, but dozens of real victims—and they cannot be forgotten when a court imposes sentence.

So the sentence of the Court is that the defendant is sentenced to 24 months in prison, to be followed by three years of supervised release, although that may turn out to be moot given the immigration issues. But the terms of supervised release I'll get to in a moment.

No fine will be imposed because there is this restitution order, which I will now hand to my courtroom deputy to file, which is in the total sum of \$1,704,408.52, and that, needless to say, will exhaust, or more than exhaust any funds that this defendant has available.

There is, however, a \$100 mandatory special assessment that must be paid.

The terms of supervised release are:

First, the mandatory conditions that the defendant not

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1 commit any other federal, state, or local crime;

2 That he not unlawfully possess a controlled substance;

3 That he make restitution in accordance with the  
4 schedule that I'll set in a moment; and

5 That he cooperate in the collection of DNA.

6 The other mandatory condition, the drug testing  
7 condition, is suspended, based on the Court's determination  
8 that the defendant poses a low risk of future substance abuse.

9 There will also be imposed the standard conditions 1  
10 through 12. They appear on the face of the judgment, but will  
11 also be gone over with the defendant when he reports to the  
12 probation office, which he must do within 72 hours of his  
13 release from prison.

14 And there are the special conditions:

15 First, that he provide the probation office with  
16 access to any requested financial information.

17 Second, that he not incur new credit charges or open  
18 additional lines of credit without the approval of the  
19 probation officer unless he is in compliance with the  
20 installment payment schedule. The installment payment schedule  
21 is that payment must be made beginning the second month of  
22 supervised release at the rate of 15 percent of his gross  
23 monthly income.

24 Third, that he must obey the immigration laws and  
25 comply with the directives of the immigration authorities.

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1                   And fourth, that he be supervised by the district of  
2 his residence. Although, again, this may be superseded in  
3 effect by deportation.

4                   Before I advise the defendant of his right of appeal,  
5 is there anything else that either counsel wishes to take up  
6 with the Court? Anything from the government?

7                   MR. RAVI: The government would move to dismiss all  
8 open counts against the defendant.

9                   THE COURT: That motion is granted.

10                  MR. CERIMELE: Your Honor, at the end of our  
11 sentencing submission, we requested that the defendant be --

12                  THE COURT: I'm sorry?

13                  MR. CERIMELE: Sorry. At the end of our sentencing  
14 submission, we made a request that the defendant be able to  
15 self-surrender.

16                  THE COURT: Yes. So let's set the surrender date.

17                  THE DEPUTY CLERK: April 12th before 2:00. That's a  
18 Tuesday.

19                  THE COURT: April 12th by 2 p.m.

20                  Now I can't order where he will be detained but I can  
21 recommend. Do you have a recommendation?

22                  (Mr. Cerimele conferring with the defendant)

23                  MR. CERIMELE: Your Honor, somewhere nearest where he  
24 currently resides in Virginia.

25                  THE COURT: Okay. I will so recommend.

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1                   MR. CERIMELE: Thank you, your Honor.

2                   THE COURT: So Mr. Aning, you have a right to appeal  
3 this sentence. Do you understand that?

4                   THE DEFENDANT: Yes, your Honor.

5                   THE COURT: And if you can't afford counsel for the  
6 appeal, the court will appoint one for you free of charge. Do  
7 you understand that?

8                   THE DEFENDANT: Yes, your Honor.

9                   THE COURT: Very good. Thanks a lot.

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